

## HOUSE BILL NO. 366

INTRODUCED BY KOOPMAN, WARD, BROWN, MAEDJE, JOHN BALLYEAT, FUREY, GOLIE, CLARK,  
CAMPBELL, LANGE, MENDENHALL, KLOCK, EVERETT, WARDEN, SONJU, EATON, WINDHAM,  
JACKSON, COHENOUR, RIPLEY, HAWK

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING FROM REGULATION UNDER THE COMMERCE  
CLAUSE OF THE CONSTITUTION OF THE UNITED STATES A FIREARM, A FIREARM ACCESSORY, OR  
AMMUNITION MANUFACTURED AND RETAINED IN MONTANA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Short title.** [Sections 1 through 7 6] may be cited as the "Montana  
Firearms Freedom Act".

**NEW SECTION. Section 2. Legislative declaration of authority.** The legislature declares that the  
authority for [sections 1 through 7 6] is the following:

(1) The 10th amendment to the United States constitution guarantees to the states and their people all  
powers not granted to the federal government elsewhere in the constitution and reserves to the state and people  
of Montana certain powers as they were understood at the time that Montana was admitted to statehood in 1889.  
The guarantee of those powers is a matter of contract between the state and people of Montana and the United  
States as of the time that the compact with the United States was agreed upon and adopted by Montana and  
the United States in 1889.

(2) The ninth amendment to the United States constitution guarantees to the people rights not granted  
in the constitution and reserves to the people of Montana certain rights as they were understood at the time that  
Montana was admitted to statehood in 1889. The guarantee of those rights is a matter of contract between the  
state and people of Montana and the United States as of the time that the compact with the United States was  
agreed upon and adopted by Montana and the United States in 1889.

(3) The second amendment to the United States constitution reserves to the people the right to keep  
and bear arms as that right was understood at the time that Montana was admitted to statehood in 1889, and  
the guarantee of the right is a matter of contract between the state and people of Montana and the United States

as of the time that the compact with the United States was agreed upon and adopted by Montana and the United States in 1889.

(4) Article II, section 12, of the Montana constitution clearly secures to Montana citizens, and prohibits government interference with, the right of individual Montana citizens to keep and bear arms. This constitutional protection is unchanged from the 1889 Montana constitution, which was approved by congress and the people of Montana, and the right exists as it was understood at the time that the compact with the United States was agreed upon and adopted by Montana and the United States in 1889.

**NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 7 6], the following definitions apply:

(1) "Borders of Montana" means the boundaries of Montana defined in Article I, section 1, of the 1889 Montana constitution.

(2) "Firearms accessories" means items that are used in conjunction with or mounted upon a firearm but are not essential to the basic function of a firearm, including but not limited to telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket stocks and grips, speedloaders, ammunition carriers, and lights for target illumination.

(3) "Manufactured" means creating a firearm, a firearm accessory, or ammunition from basic materials for functional usefulness, including but not limited to forging, casting, machining, or other processes for working materials.

**NEW SECTION. Section 4. Prohibition.** A personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in Montana and that remains within the borders of Montana is not subject to federal law or federal regulation, including registration, under the authority of congress to regulate interstate commerce. It is declared by the legislature that those items have not traveled in interstate commerce. This section applies to a firearm, a firearm accessory, or ammunition that is manufactured in Montana from basic materials and that can be manufactured without the inclusion of any significant parts imported from another state. Generic and insignificant parts that have other manufacturing or consumer product applications are not firearms, firearms accessories, or ammunition, and their importation into Montana and incorporation into a firearm, a firearm accessory, or ammunition manufactured in Montana does not subject the firearm, firearm accessory, or ammunition to federal regulation. "Generic and insignificant parts" includes but is not limited to

1 springs, screws, nuts, and pins. It is declared by the legislature that basic materials, such as unmachined steel  
2 and unshaped wood, are not firearms, firearms accessories, or ammunition and are not subject to congressional  
3 authority to regulate firearms, firearms accessories, and ammunition under interstate commerce as if they were  
4 actually firearms, firearms accessories, or ammunition. The authority of congress to regulate interstate  
5 commerce in basic materials does not include authority to regulate firearms, firearms accessories, and  
6 ammunition made in Montana from those materials. Firearms accessories that are imported into Montana from  
7 another state and that are subject to federal regulation as being in interstate commerce do not subject a firearm  
8 to federal regulation under interstate commerce because they are attached to or used in conjunction with a  
9 firearm in Montana.

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11 **NEW SECTION. Section 5. Exceptions.** [Section 4] does not apply to:

- 12 (1) a firearm that cannot be carried and used by one person;  
13 (2) a firearm that has a bore diameter greater than 1 1/2 inches and that uses smokeless powder, not  
14 black powder, as a propellant;  
15 (3) ammunition with a projectile that explodes using an explosion of chemical energy after the projectile  
16 leaves the firearm; or  
17 (4) a firearm that discharges two or more projectiles with one activation of the trigger or other firing  
18 device.

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20 **NEW SECTION. Section 6. Marking of firearms.** A firearm manufactured or sold in Montana under  
21 [sections 1 through 7 6] must have the words "Made in Montana" clearly stamped on a central metallic part, such  
22 as the receiver or frame.

23  
24 ~~**NEW SECTION. Section 7. Duties of attorney general.** (1) A Montana citizen whom the government~~  
25 ~~of the United States attempts to prosecute, under the congressional power to regulate interstate commerce, for~~  
26 ~~violation of a federal law concerning the manufacture, sale, transfer, or possession of a firearm, a firearm~~  
27 ~~accessory, or ammunition manufactured and retained within Montana must be defended in full by the Montana~~  
28 ~~attorney general.~~

29 ~~(2) Upon written notification to the Montana attorney general by a Montana citizen of intent to~~  
30 ~~manufacture a firearm, a firearm accessory, or ammunition to which [sections 1 through 7] apply, the attorney~~

1 ~~general shall seek a declaratory judgment from the federal district court for the district of Montana that [sections~~  
2 ~~1 through 7] are consistent with the constitution, statutes, and case law of the United States.~~  
3 ~~- END -~~